

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

JAMES MICHAEL BEACHAM,

Petitioner,

Case No. 1:08-cv-252

v

HON. JANET T. NEFF

WILLIE SMITH,

Respondent.

FINAL ORDER

This is a habeas corpus petition filed pursuant to 28 U.S.C. § 2254. The matter was referred to the Magistrate Judge, who issued a Report and Recommendation, recommending that this Court dismiss the petition upon initial screening because it plainly appears that petitioner is not entitled to relief. The matter is presently before the Court on Petitioner's objection to the Report and Recommendation. In accordance with 28 U.S.C. § 636(b)(1) and FED. R. CIV. P. 72(b)(3), the Court has performed de novo consideration of those portions of the Report and Recommendation to which an objection has been made. The Court denies the objection and issues this Final Order pursuant to FED. R. CIV. P. 58.

Petitioner's objection simply demonstrates his disagreement with the Magistrate Judge's conclusions. Petitioner does not point out any error by the Magistrate Judge. The Court therefore denies the objection.

Having so determined, the Court must further determine pursuant to 28 U.S.C. § 2253(c) whether to grant a certificate of appealability as to the scoring issue raised. *See Slack v. McDaniel*, 529 U.S. 473 (2000); *Murphy v. Ohio*, 263 F.3d 466, 466-67 (6th Cir. 2001).

“Where a district court has rejected the constitutional claims on the merits, the showing required to satisfy § 2253(c) is straightforward: The petitioner must demonstrate that reasonable jurists would find the district court’s assessment of the constitutional claims debatable or wrong.” *Slack*, 529 U.S. at 484. Upon review, this Court finds that reasonable jurists would not find the Court’s assessment of petitioner’s scoring claim debatable or wrong. A certificate of appealability will therefore be denied.

THEREFORE, IT IS ORDERED that the objection (Dkt 5) is DENIED and the Report and Recommendation of the Magistrate Judge (Dkt 4) is APPROVED and ADOPTED as the opinion of the Court.

IT IS FURTHER ORDERED that the petition for habeas corpus relief (Dkt 1) is DISMISSED for the reasons stated in the Report and Recommendation.

IT IS FURTHER ORDERED that a certificate of appealability pursuant to 28 U.S.C. § 2253(c) is DENIED as to the issue asserted.

Date: October 8, 2008

/s/ Janet T. Neff

JANET T. NEFF

United States District Judge